

AMENDED IN SENATE JUNE 18, 2002  
AMENDED IN ASSEMBLY MAY 23, 2002  
AMENDED IN ASSEMBLY APRIL 16, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2876**

**Introduced by Assembly Member Firebaugh**

February 25, 2002

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An act to amend ~~Section 34501.12~~ of *Sections 4750 and 40000.7* of, and to add *Section 4000.7* to, the Vehicle Code, relating to motor carriers.

LEGISLATIVE COUNSEL'S DIGEST

AB 2876, as amended, Firebaugh. Motor carriers.

*Existing law provides for registration of specified vehicles in the Motor Carrier Permit program, and the Biennial Inspection of Terminals program.*

*This bill would require, upon application for original registration and upon transfer of ownership, that owners of truck tractors having a declared gross vehicle weight of 26,001 or more pounds, and motor trucks with 3 or more axles having a declared gross vehicle weight of 26,001 or more pounds, in addition to all other requirements for registration, provide certification that the vehicle has been properly registered under the Motor Carrier Permit program administered by the department, and, if required, registered with the Department of the California Highway Patrol's Biennial Inspection of Terminals program, as specified. A vehicle owner who makes a false certification would be*

*guilty of a misdemeanor. By creating a new crime, this bill would impose a state-mandated local program.*

*Existing law requires the Department of Motor Vehicles to refuse registration, or renewal or transfer of registration for specified grounds.*

*This bill would add to those grounds, subject to exceptions, the circumstance where certification of compliance with or exemption from the Motor Carrier of Property Permit program and the Biennial Inspection of Terminals program has not been provided to the department as specified. This bill would make other technical, conforming changes.*

~~Existing law requires motor carriers, as defined, to designate one or more terminals where vehicles, maintenance records, and driver records may be inspected by the state, as specified. Existing law also requires submission of an application and fee relative to these inspections. Existing law also provides that it is unlawful for a motor carrier to operate any vehicle subject to these provisions without having submitted an inspection application and the required fees.~~

~~This bill would, in addition, direct the Department of Motor Vehicles, once funding becomes available, not to renew the registration of a vehicle owned by a motor carrier unless it receives a valid copy of a carrier identification number, a motor carrier permit, if applicable, and proof of payment of inspection fees.~~

~~The bill would also provide that any person who presents fraudulent copies of these documents to the Department of Motor Vehicles is guilty of a misdemeanor. Because the bill would create a new crime, it would impose a state-mandated local program.~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1    ~~SECTION 1. Section 34501.12 of the Vehicle Code is~~  
2

1     *SECTION 1. Section 4000.7 is added to the Vehicle Code, to*  
2     *read:*

3     4000.7. (a) *Upon application for original registration and*  
4     *upon transfer of ownership, the owners of the following described*  
5     *vehicles shall, in addition to all other requirements for*  
6     *registration, provide the certification described in subdivision (b):*

7     (1) *Truck tractors having a declared gross vehicle weight of*  
8     *26,001 or more pounds.*

9     (2) *Motor trucks with three or more axles having a declared*  
10    *gross vehicle weight of 26,001 or more pounds.*

11    (b) *Every owner of a vehicle described in subdivision (a) shall*  
12    *sign a certification, attesting that the vehicle has been properly*  
13    *registered under the Motor Carrier of Property Permit program*  
14    *administered by the department, and, if required, registered with*  
15    *the Department of the California Highway Patrol's Biennial*  
16    *Inspection of Terminals program. If the vehicle is to be operated*  
17    *in a manner in which registration is either or both of these*  
18    *programs is not required, the form shall contain a section in which*  
19    *the vehicle owner can certify to that fact.*

20    (c) *A vehicle owner who makes a false certification on the*  
21    *document described in subdivision (b) is guilty of a misdemeanor.*

22    SEC. 2. *Section 4750 of the Vehicle Code is amended to read:*

23    4750. The department shall refuse registration, or renewal or  
24    transfer of registration, upon any of the following grounds:

25    (a) The application contains any false or fraudulent statement.

26    (b) The required fee has not been paid.

27    (c) The registration, or renewal or transfer of registration, is  
28    prohibited by the requirements of Part 5 (commencing with  
29    Section 43000) of Division 26 of the Health and Safety Code.

30    (d) The owner of a heavy vehicle, which is subject to the heavy  
31    vehicle use tax imposed pursuant to Section 4481 of Title 26 of the  
32    United States Code, has not presented sufficient evidence, as  
33    determined by the department, that the tax for the vehicle has been  
34    paid pursuant to that section.

35    (e) Evidence of financial responsibility, that is required for a  
36    vehicle registration renewal where there is no change in registered  
37    owner, has not been provided to the department pursuant to  
38    Section 4000.37 or electronically. This subdivision does not apply  
39    to any of the following:

(1) A vehicle for which a certification has been filed pursuant to Section 4604, until the vehicle is registered for operation upon the highway.

(2) A vehicle owned or leased by, or under the direction of, the United States or any public entity that is included in Section 811.2 of the Government Code.

(3) A vehicle registration renewal application where there is a change of registered owner.

*(f) Certification of compliance with or exemption from the department's Motor Carrier of Property Permit program and the Department of the California Highway Patrol's Biennial Inspection of Terminals program has not been provided to the department pursuant to Section 4000.7. This subdivision does not apply to:*

*(1) A vehicle for which a certification has been filed pursuant to Section 4604, until the vehicle is registered for operation upon the highway.*

*(2) A vehicle owned or leased by, or under the direction of, the United States or any public entity that is included in Section 811.2 of the Government Code.*

*(3) An application for vehicle registration renewal only.*

*SEC. 3. Section 40000.7 of the Vehicle Code is amended to read:*

40000.7. (a) A violation of any of the following provisions is a misdemeanor, and not an infraction:

(1) Section 2416, relating to regulations for emergency vehicles.

(2) Section 2800, relating to failure to obey an officer's lawful order or submit to a lawful inspection.

(3) Section 2800.1, relating to fleeing from a peace officer.

(4) Section 2801, relating to failure to obey a firefighter's lawful order.

(5) Section 2803, relating to unlawful vehicle or load.

(6) Section 2813, relating to stopping for inspection.

*(7) Subdivision (b) of Section 4000.7, related to deceptive or false evidence of registration in specified programs.*

(8) Subdivisions (b), (c), and (d) of Section 4461 and subdivisions (b) and (c) of Section 4463, relating to disabled person placards and disabled person and disabled veteran license plates.

~~(8)~~

(9) Section 4462.5, relating to deceptive or false evidence of vehicle registration.

~~(9)~~

(10) Section 4463.5, relating to deceptive or facsimile license plates.

~~(10)~~

(11) Section 5105.5, relating to environmental license plates.

~~(11)~~

(12) Section 5500, relating to the surrender of registration documents and license plates before dismantling may begin.

~~(12)~~

(13) Section 5753, relating to delivery of certificates of ownership and registration when committed by a dealer or any person while a dealer within the preceding 12 months.

~~(13)~~

(14) Section 5901, relating to dealers and lessor-retailers giving notice.

~~(14)~~

(15) Section 5901.1, relating to lessors giving notice and failure to pay fee.

~~(15)~~

(16) Section 8802, relating to the return of canceled, suspended, or revoked certificates of ownership, registration cards, or license plates, when committed by any person with intent to defraud.

~~(16)~~

(17) Section 8803, relating to return of canceled, suspended, or revoked documents and license plates of a dealer, manufacturer, remanufacturer, transporter, dismantler, or salesman.

(b) This section shall become operative on January 1, 2001.

~~amended to read:~~

~~34501.12. (a) Notwithstanding Section 408, as used in this section and Sections 34505.5 and 34505.6, "motor carrier" means the registered owner of any vehicle described in subdivision (a), (b), (c), (d), (e), (f), or (g) of Section 34500, except in the following circumstances:~~

~~(1) The registered owner leases the vehicle to another person for a term of more than four months. If the lease is for more than four months, the lessee is the motor carrier.~~

1     ~~(2) The registered owner operates the vehicle exclusively~~  
2 ~~under the authority and direction of another person. If the~~  
3 ~~operation is exclusively under the authority and direction of~~  
4 ~~another person, that other person may assume the responsibilities~~  
5 ~~as the motor carrier. If not so assumed, the registered owner is the~~  
6 ~~motor carrier. A person who assumes the motor carrier~~  
7 ~~responsibilities of another pursuant to subdivision (b) shall~~  
8 ~~provide to that other person whose motor carrier responsibility is~~  
9 ~~so assumed, a completed copy of a departmental form~~  
10 ~~documenting that assumption, stating the period for which~~  
11 ~~responsibility is assumed, and signed by an agent of the assuming~~  
12 ~~person. A legible copy shall be carried in each vehicle or~~  
13 ~~combination of vehicles operated on the highway during the~~  
14 ~~period for which responsibility is assumed. That copy shall be~~  
15 ~~presented upon request by any authorized employee of the~~  
16 ~~department. The original completed departmental form~~  
17 ~~documenting the assumption shall be provided to the department~~  
18 ~~within 30 days of the assumption. If the assumption of~~  
19 ~~responsibility is terminated, the person who had assumed~~  
20 ~~responsibility shall so notify the department in writing within 30~~  
21 ~~days of the termination.~~

22     ~~(b) (1) A motor carrier may combine two or more terminals for~~  
23 ~~purposes of the inspection required by subdivision (d) subject to~~  
24 ~~all of the following conditions:~~

25     ~~(A) The carrier identifies to the department, in writing, each~~  
26 ~~terminal proposed to be included in the combination of terminals~~  
27 ~~for purposes of this subdivision prior to an inspection of the~~  
28 ~~designated terminal pursuant to subdivision (d).~~

29     ~~(B) The carrier provides the department, prior to the inspection~~  
30 ~~of the designated terminal pursuant to subdivision (d), a written~~  
31 ~~listing of all its vehicles of a type subject to subdivision (a), (b),~~  
32 ~~(c), (f), or (g) of Section 34500 that are based at each of the~~  
33 ~~terminals combined for purposes of this subdivision. The listing~~  
34 ~~shall specify the number of vehicles of each type at each terminal.~~

35     ~~(C) The carrier provides to the department at the designated~~  
36 ~~terminal during the inspection all maintenance records and driver~~  
37 ~~records and a representative sample of vehicles based at each of the~~  
38 ~~terminals included within the combination of terminals.~~

39     ~~(2) If the carrier fails to provide the maintenance records,~~  
40 ~~driver records, and representative sample of vehicles pursuant to~~

subparagraph (C) of paragraph (1), the department shall assign the carrier an unsatisfactory terminal rating and require a reinspection to be conducted pursuant to subdivision (h).

(3) For purposes of this subdivision, the following terms have the meanings given:

(A) “Driver records” includes ~~pull notice system records, driver proficiency records, and driver timekeeping records.~~

(B) “Maintenance records” includes ~~all required maintenance, lubrication, and repair records and drivers’ daily vehicle condition reports.~~

(C) “Representative sample” means the following, applied separately to the carrier’s fleet of motortrucks and truck tractors and its fleet of trailers:

Fleet Size	Representative Sample
1 or 2	All
3 to 8	—3
9 to 15	—4
16 to 25	—6
26 to 50	—9
51 to 90	—14
91 or more	—20

(e) ~~Each motor carrier who, in this state, directs the operation of, or maintains, any vehicle of a type described in subdivision (a) shall designate one or more terminals, as defined in Section 34515, in this state where vehicles can be inspected by the department pursuant to paragraph (4) of subdivision (a) of Section 34501 and where vehicle inspection and maintenance records and driver records will be made available for inspection.~~

(d) ~~The department shall inspect, at least every 25 months, every terminal, as defined in Section 34515, of any motor carrier who, at any time, operates any vehicle described in subdivision (a).~~

~~As used in this section and in Sections 34505.5 and 34505.6, subdivision (f) of Section 34500 includes only those combinations where the gross vehicle weight rating (GVWR) of the towing vehicle exceeds 10,000 pounds, but does not include a pickup truck, and subdivision (g) of Section 34500 includes only those vehicles transporting hazardous material for which the display of~~



1 placards is required pursuant to Section 27903, a license is  
2 required pursuant to Section 32000.5, or for which hazardous  
3 waste transporter registration is required pursuant to Section  
4 25163 of the Health and Safety Code. Historical vehicles, as  
5 described in Section 5004, vehicles that display special  
6 identification plates in accordance with Section 5011, implements  
7 of husbandry and farm vehicles, as defined in Chapter 1  
8 (commencing with Section 36000) of Division 16, and vehicles  
9 owned or operated by an agency of the federal government are not  
10 subject to this section or to Sections 34505.5 and 34505.6.

11 (e) (1) It is the responsibility of the motor carrier to schedule  
12 with the department the inspection required by subdivision (d).  
13 The motor carrier shall submit an application form supplied by the  
14 department, accompanied by the required fee. The fee, which is  
15 nonrefundable, is four hundred dollars (\$400) per terminal, except  
16 in the case of an owner-operator, or a nonregulated motor carrier  
17 who owns, leases, or otherwise operates not more than one heavy  
18 power unit and not more than three towed vehicles described in  
19 subdivision (a), (b), (e), (f), or (g) of Section 34500, for which the  
20 fee shall be one hundred dollars (\$100). Federal, state, and local  
21 public entities are exempt from the fee requirements of this  
22 section.

23 (2) Except as provided in paragraph (4), the inspection term for  
24 each inspected terminal of a motor carrier shall expire 25 months  
25 from the date the terminal receives a satisfactory compliance  
26 rating, as specified in subdivision (h). Applications and fees for  
27 subsequent inspections shall be submitted not earlier than nine  
28 months and not later than seven months before the expiration of the  
29 motor carrier's then current inspection term. If the motor carrier  
30 has submitted the inspection application and the required  
31 accompanying fees, but the department is unable to complete the  
32 inspection within the 25-month inspection period, then no  
33 additional fee shall be required for the inspection requested in the  
34 original application.

35 (3) All fees collected pursuant to this subdivision shall be  
36 deposited in the Motor Vehicle Account in the State Transportation  
37 Fund. An amount equal to the fees collected shall be available for  
38 appropriation by the Legislature from the Motor Vehicle Account  
39 to the department for the purpose of conducting truck terminal



1 ~~inspections and for the additional roadside safety inspections~~  
2 ~~required by Section 34514.~~

3 ~~(4) To avoid the scheduling of a renewal terminal inspection~~  
4 ~~pursuant to this section during a carrier's seasonal peak business~~  
5 ~~periods, the current inspection term of a terminal that has paid all~~  
6 ~~required fees and has been rated satisfactory in its last inspection~~  
7 ~~may be reduced by not more than nine months if a written request~~  
8 ~~is submitted by the carrier to the department at least four months~~  
9 ~~prior to the desired inspection month, or at the time of payment of~~  
10 ~~renewal inspection fees in compliance with paragraph (2),~~  
11 ~~whichever date is earlier. A motor carrier may request this~~  
12 ~~adjustment of the inspection term during any inspection cycle. A~~  
13 ~~request made pursuant to this paragraph shall not result in a fee~~  
14 ~~proration and does not relieve the carrier from the requirements of~~  
15 ~~paragraph (2).~~

16 ~~(f) (1) It is unlawful for a motor carrier to operate any vehicle~~  
17 ~~subject to this section without having submitted an inspection~~  
18 ~~application and the required fees to the department as required by~~  
19 ~~subdivision (e) or (h).~~

20 ~~(2) The Department of Motor Vehicles shall not renew the~~  
21 ~~registration of any vehicle subject to this section unless it receives~~  
22 ~~the following items:~~

23 ~~(A) A valid copy of a carrier identification number issued by~~  
24 ~~the department.~~

25 ~~(B) A motor carrier permit, if applicable.~~

26 ~~(C) Proof of payment of the fees required by subdivision (e) or~~  
27 ~~(h).~~

28 ~~(3) Any person who presents to the Department of Motor~~  
29 ~~Vehicles fraudulent copies of any document required by paragraph~~  
30 ~~(2) of this subdivision is guilty of a misdemeanor.~~

31 ~~(4) The Department of Motor Vehicles shall implement~~  
32 ~~paragraph (2) only after funding for its implementation becomes~~  
33 ~~available.~~

34 ~~(g) It is unlawful for any motor carrier to operate any vehicle~~  
35 ~~subject to this section after submitting an inspection application to~~  
36 ~~the department, without the inspection described in subdivision~~  
37 ~~(d) having been performed and a safety compliance report having~~  
38 ~~been issued to the motor carrier within the 25-month inspection~~  
39 ~~period or within 60 days immediately preceding the inspection~~  
40 ~~period.~~

~~(h) (1) Any inspected terminal that receives an unsatisfactory compliance rating shall be reinspected within 120 days after the issuance of the unsatisfactory compliance rating.~~

~~(2) A terminal's first required reinspection under this subdivision shall be without charge unless one or more of the following is established:~~

~~(A) The motor carrier's operation presented an imminent danger to public safety.~~

~~(B) The motor carrier was not in compliance with the requirement to enroll all drivers in the pull notice program pursuant to Section 1808.1.~~

~~(C) The motor carrier failed to provide all required records and vehicles for a consolidated inspection pursuant to subdivision (b).~~

~~(3) If the unsatisfactory rating was assigned for any of the reasons set forth in paragraph (2), the carrier shall submit the required fee as provided in paragraph (4).~~

~~(4) Applications for reinspection pursuant to paragraph (3) or for second and subsequent consecutive reinspections under this subdivision shall be accompanied by the fee specified in paragraph (1) of subdivision (c) and shall be filed within 60 days of issuance of the unsatisfactory compliance rating. The reinspection fee is nonrefundable.~~

~~(5) When a motor carrier's Motor Carrier of Property Permit or Public Utilities Commission operating authority is suspended as a result of an unsatisfactory compliance rating, the department shall conduct no reinspection until requested to do so by the Department of Motor Vehicles or the Public Utilities Commission, as appropriate.~~

~~(i) It is the intent of the Legislature that the department make its best efforts to inspect terminals within the resources provided. In the interest of the state, the Commissioner of the California Highway Patrol may extend for a period not to exceed six months the inspection terms beginning prior to July 1, 1990.~~

~~(j) To encourage motor carriers to attain continuous satisfactory compliance ratings, the department may establish and implement an incentive program consisting of the following:~~

~~(1) After the second consecutive satisfactory compliance rating assigned to a motor carrier terminal as a result of an inspection conducted pursuant to subdivision (d), and after each consecutive satisfactory compliance rating thereafter, an appropriate~~

1 ~~certificate, denoting the number of consecutive satisfactory~~  
2 ~~ratings, shall be awarded to the terminal, unless the terminal has~~  
3 ~~received an unsatisfactory compliance rating as a result of any~~  
4 ~~inspection conducted in the interim between the consecutive~~  
5 ~~inspections conducted under subdivision (d), or the motor carrier~~  
6 ~~is rated unsatisfactory by the department following a controlled~~  
7 ~~substances and alcohol testing program inspection. The certificate~~  
8 ~~authorized under this paragraph shall not be awarded for~~  
9 ~~performance in the administrative review authorized under~~  
10 ~~paragraph (2). However, the certificate shall include a reference to~~  
11 ~~any administrative reviews conducted during the period of~~  
12 ~~consecutive satisfactory ratings.~~

13 ~~(2) Unless the department's evaluation of the motor carrier's~~  
14 ~~safety record indicates a declining level of compliance, a terminal~~  
15 ~~that has attained two consecutive satisfactory compliance ratings~~  
16 ~~assigned following inspections conducted pursuant to subdivision~~  
17 ~~(d) is eligible for an administrative review in lieu of the next~~  
18 ~~required inspection, unless the terminal has received an~~  
19 ~~unsatisfactory compliance rating as a result of any inspection~~  
20 ~~conducted in the interim between the consecutive inspections~~  
21 ~~conducted under subdivision (d). An administrative review shall~~  
22 ~~consist of all of the following:~~

23 ~~(A) A signed request by a terminal management representative~~  
24 ~~requesting the administrative review in lieu of the required~~  
25 ~~inspection containing a promise to continue to maintain a~~  
26 ~~satisfactory level of compliance for the next 25-month inspection~~  
27 ~~term.~~

28 ~~(B) A review with a terminal management representative of the~~  
29 ~~carrier's record as contained in the department's files. If a terminal~~  
30 ~~has been authorized a second consecutive administrative review,~~  
31 ~~the review required under this subparagraph is optional, and may~~  
32 ~~be omitted at the carrier's request.~~

33 ~~(C) Absent any cogent reasons to the contrary, upon~~  
34 ~~completion of the requirements of subparagraphs (A) and (B), the~~  
35 ~~safety compliance rating assigned during the last required~~  
36 ~~inspection shall be extended for 25 months.~~

37 ~~(3) Not more than two administrative reviews may be~~  
38 ~~conducted consecutively. At the completion of the 25-month~~  
39 ~~inspection term following a second administrative review, a~~  
40 ~~terminal inspection shall be conducted pursuant to subdivision (d).~~

1 ~~If this inspection results in a satisfactory compliance rating, the~~  
2 ~~terminal shall again be eligible for an administrative review in lieu~~  
3 ~~of the next required inspection. If the succession of satisfactory~~  
4 ~~ratings is interrupted by any rating of other than satisfactory,~~  
5 ~~irrespective of the reason for the inspection, the terminal shall~~  
6 ~~again attain two consecutive satisfactory ratings to become~~  
7 ~~eligible for an administrative review.~~

8 ~~(4) As a condition for receiving the administrative reviews~~  
9 ~~authorized under this subdivision in lieu of inspections, and in~~  
10 ~~order to ensure that compliance levels remain satisfactory, the~~  
11 ~~motor carrier shall agree to accept random, unannounced~~  
12 ~~inspections by the department.~~

13 ~~SEC. 2.~~

14 *SEC. 4.* No reimbursement is required by this act pursuant to  
15 Section 6 of Article XIII B of the California Constitution because  
16 the only costs that may be incurred by a local agency or school  
17 district will be incurred because this act creates a new crime or  
18 infraction, eliminates a crime or infraction, or changes the penalty  
19 for a crime or infraction, within the meaning of Section 17556 of  
20 the Government Code, or changes the definition of a crime within  
21 the meaning of Section 6 of Article XIII B of the California  
22 Constitution.